

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
at CHATTANOOGA

ROGER DODSON,)	
)	
<i>Plaintiff,</i>)	
)	Case No. 1:15-cv-287
v.)	
)	Judge Mattice
HARRINGTON & KING)	
SOUTH, INC., <i>et al.</i> ,)	Magistrate Judge Steger
)	
<i>Defendants.</i>)	
)	

ORDER

On October 14, 2016, Defendant Andrew Lovaas filed his Answer (Doc. 39). Therein, Defendant Lovaas argues that “both of the corporate-entity defendants in this matter are currently in bankruptcy proceedings. Mr. Lovaas asserts that this proceeding should be subject to an automatic stay—effective as to all defendants—until such time as the other defendants emerge from bankruptcy proceedings.” (*Id.* at 2–3). The Court notes, however, that this is not the approach typically followed by the United States Court of Appeals for the Sixth Circuit. *See Lynch v. Johns-Manville Sales Corp.*, 710 F.2d 1194, 1197 (6th Cir. 1983) (“Nothing in the legislative history counsels that the automatic stay should be invoked in a manner which would advance the interests of some third party, such as the debtor’s co-defendants, rather than the debtor or its creditors. This Court concurs with the district court’s conclusion that it would distort congressional purpose to hold that a third party solvent co-defendant should be shielded against his creditors by a device intended for the protection of the insolvent debtor and creditors thereof.”) (internal quotation marks and citations omitted); *id.* at 1199

(“Accordingly, this Court finds no basis in law or equity for staying proceedings of the solvent co-defendants of Unarco and J-M until such time as said debtors have been reorganized or liquidated.”).

Accordingly, if Defendant Lovaas wishes to pursue a stay of this entire action, he is hereby **ORDERED** to file a formal Motion to Stay outlining the reasons why this Court should grant an exception to the general rule that the automatic stay provision of the bankruptcy code does not apply to solvent co-defendants.

SO ORDERED this 18th day of October, 2016.

/s/ Harry S. Mattice, Jr.
HARRY S. MATTICE, JR.
UNITED STATES DISTRICT JUDGE